

June 29, 1999

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

850 Union Bank of California Building
900 Fourth Avenue
Seattle, Washington 98164
Telephone (206) 296-4660
Facsimile (206) 296-1654

REPORT AND DECISION.

SUBJECT: Department of Development and Environmental Services File No. **L98P0053**

COUNTRY GATE AT LAKE YOUNG
Application for Preliminary Plat Approval

Location: The site is located at the NE corner of SE 200th Street and 142nd Avenue SE, just south of Lake Young Elementary.

Applicant: Northward Homes, *represented by* **Dick Gilroy**
1516 – 140th Avenue NE
Bellevue, WA 98007
Telephone: (425) 747-1726

Department: Development and Environmental Services, Land Use Services Division,
represented by **James Weaver**
900 Oakesdale Avenue SW
Renton, WA 98055-1219
Telephone: (425) 296-7095

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary Recommendation:	Approve, subject to conditions
Department's Final Recommendation:	Approve, subject to conditions
Examiner's Decision:	Approve, subject to conditions

PRELIMINARY MATTERS:

Application or petition submitted:	December 28, 1998
Complete application:	January 25, 1999

EXAMINER PROCEEDINGS:

Hearing Opened:	June 22, 1999
Hearing Closed:	June 22, 1999

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.

A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES/TOPICS ADDRESSED:

- Water quality
- Traffic impacts
- Mitigation Payment System (MPS)
- Density (subdivisions)

SUMMARY:

R-6 classified parcel of 4.11 acres granted preliminary plat approval for 25 single-family residential building lots.

FINDINGS, CONCLUSIONS & DECISION

1. General Information.

Owner/Developer:	Northward Homes, Inc. C/o Dick Gilroy 1516 – 140 th Avenue NE, Suite 100 Bellevue, WA 98007 (425) 747-1726
Engineer:	Dodds Engineers, Inc. Bellevue, WA 98007 (425) 885-7877
STR:	SW/NE 03-22-05
Location:	The site is located at the Northeast corner of SE 200 th Street and 142 nd Avenue SE, just south of Lake Young Elementary School
Zoning:	R-6, urban residential (6 units per acre)
Acreage:	4.11
Number of Lots:	25
Density:	6 units per acre
Lot Size:	Ranges from 4,800 to 6,700 square feet
Proposed Use:	Detached Single Family Residence
Sewage Disposal:	Soos Creek Water & Sewer District
Water Supply:	Soos Creek Water & Sewer District
Fire District:	No. 37 (Kent)
School District:	Kent School District
Complete Application Date:	January 25, 1999

2. **Summary of Proposed Action.** This is a request for a subdivision of 4.11 acres into 25 lots for detached single-family dwellings. The proposed density is 6 dwelling units per acre. The lot sizes range from approximately 4,800 to 6,700 square feet. See Exhibit No. 7 for a copy of the proposed preliminary plat drawing, revised May 23, 1999.
3. **State Environmental Policy Act.** An Environmental Impact Statement (EIS) is not required. On May 5, 1999 the Department of Development and Environmental Services (the “Department” or “DDES”) issued a *threshold determination of non-significance* for the proposed development. The Department based this determination not to require an Environmental Impact Statement upon various environmental documents required for subdivision review. Those documents include the Applicant’s environmental checklist, a downstream drainage analysis, a site evaluation for wetland conditions, a conceptual drainage plan and other relevant information. These documents are contained in this hearing record. No person, agency or tribe appealed that determination.
4. **Department Recommendation.** The Department recommends granting preliminary plat approval to the proposed subdivision of Country Gate at Lake Young; *subject* to the sixteen conditions of final plat approval stated on pages 7 through 11; *and subject further* to the two additional conditions contained in Exhibit No. 17. The recommended conditions address zoning-based density limits; standards regarding Seattle-King County Department of Public Health, public and private roads, fire protection engineering, drainage, grading, utilities accommodation, seasonal clearing limits, school enrollment impact fees, transportation impact fees, suitable recreation space provision, homeowners association establishment, and street trees.
5. **Applicant’s Response.** The Applicant accepts the Department’s recommendation, *except* that the Applicant proposes new language in Condition No. 13. As proposed, Condition No. 13 may be construed to require a school enrollment fee assessment for all 25 lots, even though one single family residence previously existed on the subject property. The Applicant argues that the assessment should be required for the 24 new dwelling units and that no such fee should be imposed upon the replacement dwelling unit. See also Finding No. 6, following.

Regarding the Applicant’s concern that a replacement dwelling may be assessed for school enrollment impact in the same manner as a new dwelling, KCC 21A.43.070.A.2 applies:

The following are excluded from the application of the impact fees:

Reconstruction, remodeling or replacement of existing dwelling units which does not result in additional new dwelling units. In the case of replacement of a dwelling, a complete application for a building permit must be submitted within three years after it has been removed or destroyed.

6. **Community Concerns.** Two neighboring property owners testified in this review. One expressed concern regarding development density and method of density calculation; traffic at the 140th Avenue SE/SE 200th Street intersection; and traffic on 142nd Avenue SE ingressing/egressing from abutting Lake Young Elementary School. The other expressed concern regarding downstream drainage impacts to United Nations Creek which flows to Soos Creek. A neighboring resident testifies that, contrary to Section

J.1.d on page 5 of the Department's preliminary report (Exhibit No. 2), Kentridge Senior High School students from this neighborhood do not walk to school. Rather, they are bussed. The Department did not rebut this testimony. It has no serious consequence in this proceeding, however, because the bussing assures compliance with the RCW 58.17.110 "Safe Walking Conditions" standard. Providing a sidewalk along the 142nd Avenue NE frontage goes a long way toward assuring the same.

- a. Because 142nd Avenue SE, the access street to the Country Gate at Lake Young entrance, provides principal access to Lake Young Elementary School, the Department recommends requiring that street to be improved to neighborhood collector standard. The pavement width will be increased from 24 feet to 32 feet. Curb and gutter drainage will be required in lieu of the existing roadside ditch. A County standard formal sidewalk will be installed. These improvements will improve conditions related to school generated overflow parking and traffic, with obvious increased safety. These solutions will not wholly solve the overflow parking problem. That is not the Applicant's responsibility in as much as the Applicant did not create the problem.
 - b. The Applicant will be assessed at the time of final plat approval a MPS (Mitigation Payment System) transportation impact fee. Because new projects are occasionally added and others deleted, the final fee cannot now be determined. If final plat approval were granted today, however, the fee would be \$4,770 per lot. The lion's share of this assessment is allocated to the 140th Avenue SE improvement project, to be implemented in phases over the next five or six years northward from this neighborhood to SR 169 in Maple Valley.
 - c. Drainage studies conducted by the King County Water and Land Resources Division have resulted in classifying all urban development areas into three categories of drainage standard, Levels 1 through 3. These mapped classifications are intended to protect critical resources or deteriorated downstream conditions. The subject property is not located in a designated critical area. Therefore, a Level 1 drainage standard will be applied. The Level 1 standard requires that post-development downstream peak flows *match* (must be no greater than) pre-development peak flow rates.
7. Except as otherwise indicated above, the Department preliminary report to the Examiner, Exhibit No. 2, is accurate. It is adopted and incorporated herein. Copies of the Department's report will be attached to those copies of this report which are forwarded to the King County Council.

CONCLUSIONS:

1. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, Subdivision and Zoning Codes, and other official land use controls and policies of King County.

2. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for open spaces, for drainage ways, streets, other public ways, transit stops, potable water supply, sanitary wastes, parks and recreations, playgrounds, schools and school grounds, and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
- 3 The conditions for final plat approval recommended below are in the public interest and are reasonable requirements to mitigate the impacts of this development upon the environment.
4. The dedications of land or easements within and adjacent to the proposed plat, as recommended by the conditions for final plat approval or as shown on the proposed preliminary plat submitted by the

DECISION:

It is recommended that the subject subdivision, revised and received May 28, 1999, be granted preliminary approval subject to the following conditions of final approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.
3. The plat shall meet the base density and minimum density of the R-6 zone classification. All lots shall meet the minimum dimensional requirements of the R-6 zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger. Minor revisions to the plat that do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
4. The applicant must obtain final approval from the King County Health Department.
5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
6. The applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
7. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval, which represent portions of the drainage requirements.

All other applicable requirements in KCC 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.

- a. Drainage plans and analysis shall comply with the 1998 King County Surface Water Design Manual. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

"Single family residences constructed on lots created by this subdivision must provide perforated stub-out connections according to the details shown on the approved plans. All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings \$_____ on file with DDES and/or the Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with the plans on file."
 - d. Storm water facilities shall be designed using the level one flow control standard unless an evaluation of downstream conveyance capacity determines the need for more restrictive flow control. An existing 12-inch storm pipe at the southwest corner of the property shall be evaluated during final engineering review to determine compliance with Core Requirement No. 2 and 4.
 - e. The basic water quality menu shall be used for compliance with Core Requirement No. 8 in the drainage manual.
 - f. The final drainage analysis shall evaluate the requirements for off-site bypass as outlined in Core Requirement No. 3 in the drainage manual. Drainage easements may be required to convey surface water through the project.
 - g. The size of the proposed drainage tracts may have to increase to accommodate the required detention storage volumes and water quality facilities. The runoff control facilities shall be located in a separate tract and dedicated to King County unless portions of the drainage tract are used for required recreation space in accordance with KCC 21A.14.180.
8. A large soil excavation is located in the area of lot 18 where a house was previously removed. The final engineering plans shall include a grading plan to address the requirements for structural fill in preparation for future building construction.
 9. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:

- a. 142nd Ave. SE and SE 200th Street shall be improved along the frontage of the property as urban neighborhood collector streets. The final engineering plans shall identify any existing power poles or other roadside objects and provide road designs to comply with the setback provisions of KCRS 5.11.
 - b. The on-site public street shall be improved as an urban subaccess road.
 - c. Tracts A and D shall be improved as private joint use driveways that serve a maximum of two lots. The serving lots shall have undivided ownership of the tract and be responsible for its maintenance. As specified in KCRS 3.01C, improvements shall include an 18-foot paved surface with a curb or thickened edge for drainage control. Tract D shall be revised to provide a minimum tract length of 20 feet from the right-of-way.
 - d. As required by KCRS 5.03, street trees should be included in the design of all road improvements.
 - e. The neighborhood collector streets along the frontage may require designs for bus zones and turnouts. As specified in KCRS 2.16, the designer shall contact Metro and the local school district to determine specific requirements.
 - f. A 25-foot right-of-way line radius shall be provided at the southwest property corner as required in KCRS 2.10.
 - g. Modifications to the above road conditions may be considered by King County pursuant to the variance procedures in KCRS 1.08.
10. King County Code 16.82.150D requires seasonal limitations for construction within the Soos Creek Basin. During the period October 1 through March 31, clearing and grading is not allowed unless certain provisions are complied with as outlined in the code. The applicants engineering plans and construction procedures shall demonstrate compliance with the applicable code requirements.
11. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
12. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid"; if the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
13. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat received final approval. The balance of the assessed fee shall be allocated

evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.

This subdivision will be assessed for only 24 lots, consistent with KCC 21A.43.070.A.2, unless three years expire from the time the pre-existing house was removed. After three years from that date, the assessment shall be for 25 lots.

14. Suitable recreation space shall be provided, consistent with the requirements of KCC 21A.14.180. A recreation space plan shall be reviewed and approved by DDES and the King County Parks and Recreation Department prior to engineering plan approval.
 - a. An overall conceptual recreation space plan shall be submitted for review and approval by DDES, with the submittal of the engineering plans. This plan shall include location, area calculations, dimensions, and general improvements. The approved engineering plans shall be consistent with the overall conceptual plan.
 - b. A detailed recreation space plan (i.e., landscape specs., equipment specs., etc.) consistent with the overall conceptual plan, as detailed in item a., shall be submitted for review and approval by DDES and King County Parks Prior to or concurrent with the submittal of the final plat documents.
 - c. Fencing of recreation tract B shall be provided along 142nd Avenue SE and SE 200th Avenue to prevent balls used in play by children from readily entering these streets. The fencing may be cyclone fencing or wood split rail, however if a split rail fence is used, shrubbery vegetation shall provided adjacent to the fencing to provide an adequate barrier.
 - d. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
15. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation and/or open space area(s).
16. Street trees shall be provided along property frontage as follows:
 - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along 142nd Avenue SE and SE 200th Street. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Dept. of Transportation (KCDOT) determines that trees should not be located in the street right-of-way.
 - c. If KCDOT determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.

- d. The trees shall be owned and maintained by the Homeowners' Association or other workable organization unless the county has adopted a maintenance program. This shall be noted on the face of the final recorded plat.
- e. The species of trees shall be approved by DDES and KCDOT if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
- f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval. KCDOT shall also review the street tree plan if the street trees will be located within the right-of-way.
- g. The applicant shall contact Metro Service Planning at (206) 684-1622 to determine if SE 200th Street is on a bus route. If so, the street tree plan shall also be reviewed by Metro.
- h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.

A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.

- 17. The engineering plans for this project shall identify the location of any existing septic system on the site and provide notes which address the requirements for the contractor to abandon the system pursuant to the requirements of the King County Health Department.
- 18. The engineering plans for this project shall identify the location of any wells on the site and provide notes which address the requirements for the contractor to abandon the well pursuant to requirements outlined in the Washington Administrative Code (WAC 173-160).

ORDERED this 29th day of June, 1999.

R. S. Titus, Deputy
King County Hearing Examiner

TRANSMITTED this 29th day of June, 1999, to the parties and interested persons shown below:

Robert and Deborah Berleen
Tiffany and Dana Bidne
Dave and Sheri Chandler
Muckleshoot Fisheries Department
Dodds Engineers, Inc.

Roger Dorstad
Marvin L. Herridge
Rick Hermann
Saundra Iden
King County Environmental Health Division

Karl Krompholz
Teresa LeMay
Dale Sharp
Steve A. Villa
Eleanor Moon
Northward Homes, Inc.
Donald and Marlene Maletta
Linda Matlock
Lisa Watson
Greg Borba
Kim Claussen
Peter Dye
Nick Gillen

Kristen Langley
Aileen McManus
Steven C. Townsend
James Weaver
Larry West

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) ***on or before July 10, 1999***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before July 17, 1999***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE JUNE 22, 1999 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT & ENVIRONMENTAL SERVICES FILE NO. L98P0053 – COUNTRY GATE AT LAKE YOUNG:

R.S. Titus was the Hearing Examiner in this matter. Participating in the hearing and representing the Department were James Weaver and Pete Dye. Participating in the hearing and representing the Applicant was Dick Gilroy. Other participants in this hearing were Aileen McManus, Craig Krueger, Rob Stephens, Dana Bidne and Dale Sharp.

The following exhibits were offered and entered into the record:

- | | |
|---------------|---|
| Exhibit No. 1 | Department of Development and Environmental Services File No. L98P0053 |
| Exhibit No. 2 | Department of Development and Environmental Services Preliminary Report, dated June 22, 1999. |
| Exhibit No. 3 | Application dated December 28, 1998. |
| Exhibit No. 4 | Environmental Checklist dated December 28, 1998. |
| Exhibit No. 5 | Declaration of Non-Significance, dated May 5, 1999. |

- Exhibit No. 6 Affidavit of Posting indicating May 4, 1999 as date of posting and May 6, 1999 as the date the affidavit was received by the Department of Development and Environmental Services.
- Exhibit No. 7 Preliminary Plat Map dated May 28, 1999
- Exhibit No. 8 Land Use Map (Kroll Map) 632E
- Exhibit No. 9 Assessors Maps NE 3-22-5
- Exhibit No. 10 Level One Drainage Analysis dated December 28, 1998
- Exhibit No. 11 Terra Associates Wetland Evaluation, dated December 28, 1998
- Exhibit No. 12 Topographical Survey, dated February 16, 1999
- Exhibit No. 13 Preliminary Storm Drainage Map, dated June 8, 1999
- Exhibit No. 14 Certificate of Traffic Concurrency, dated December 28, 1998
- Exhibit No. 15 P-Suffix Conditions KCC 16.82.150D, SC-P3, 50-220
- Exhibit No. 16 Letter from Peppe Christianson of KC Dept. Environ. Health to Dodds Engineers, dated December 18, 1998.
- Exhibit No. 17 Additions to Preliminary Report to the Hearing Examiner
- Exhibit No. 18 One (1) photo—neighborhood character, submitted by Dana Bidne
- Exhibit No. 19 Eight (8) photos—event related parking conditions, submitted by Dana Bidne
- Exhibit No. 20 Three (3) photos—school related traffic at 200th/140th, submitted by Dana Bidne
- Exhibit No. 21 Eight (8) photos—school related traffic at 142nd, submitted by Dana Bidne

RST:sje
Plats\L98P0053 RPT